

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

AUBREY TAYLOR,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Case No. C20-999RSL

ORDER OF DISMISSAL

This matter comes before the Court on (1) the government's "Motion to Stay" (Dkt. #5), and (2) petitioner's "Supplemental Request of Fed. R. Crim. P. 33 Motion" (Dkt. #6). Having reviewed the parties' motions, and the record contained herein, the Court finds as follows:

(1) Petitioner initiated this civil action by filing a *pro se* Motion to Vacate, Set Aside or Correct Sentence on June 24, 2020. See Dkt. #1. The motion was construed as a 28 U.S.C. § 2255 petition. Shortly after, the government moved to stay this action on the ground that petitioner's appeal of the judgment in United States v. Taylor, No. CR16-300RSL, remains pending. See Dkt. #5.

(2) On July 13, 2020, petitioner lodged a supplemental filing with the Court, indicating that he mistakenly initiated the above-captioned civil action. Dkt. #6. Petitioner moves the Court to convert his motion (Dkt. #1) to a Federal Rule of Criminal Procedure ("Rule") 33 motion under case number CR16-300RSL.

(3) Having considered the circumstances, the Court will GRANT petitioner's "Supplemental Request of Fed. R. Crim. P. 33 Motion" (Dkt. #6). IT IS HEREBY ORDERED

1 that this action be DISMISSED without prejudice. The Clerk of Court is directed to terminate  
2 the above captioned matter and to refile petitioner's "Fed. R. Crim. P. 33 / Napue Violations /  
3 Brady Violations / Prosecutorial Misconduct Motion to Vacate Convictions and Dismiss  
4 Superseding Indictment (Second)" (Dkt. #1) under case number CR16-300RSL as a Rule 33  
5 Motion for New Trial. Upon refile, the motion shall be noted for the Court's consideration on  
6 Friday, August 28, 2020.

7 (4) IT IS FURTHER ORDERED that the government's "Motion to Stay" the  
8 proceedings in the above captioned matter (Dkt. #5) be DENIED as moot.

9 (5) The Clerk of Court is directed to send a copy of this Order to petitioner.

10 IT IS SO ORDERED.

11 DATED this 11<sup>th</sup> day of August, 2020.

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15 Robert S. Lasnik  
16 United States District Judge  
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